

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BENJAMIN CASE, ELIZABETH CATLIN, JENNIFER KLEIN and
MARK KUSHNEIR,

Plaintiffs, Index No.
14-cv-9148 (AT)

-against-
THE CITY OF NEW YORK, et al,
Defendants.

----- x
100 Church Street, 4th Floor
New York, New York 10007
September 7, 2017
2:00 p.m.

DEPOSITION of LIEUTENANT DAVID GROHT, taken
by the Plaintiff in the above-entitled action, held
at the above time and place, taken before Corinne J.
Smith, a shorthand reporter and Notary Public within
and for the State of New York, pursuant to the
Federal Rules of Civil Procedure, Notice and
stipulations between counsel.

Page 2

A P P E A R A N C E S:

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S T I P U L A T I O N S

IT IS HEREBY stipulated and agreed by and among counsel for the respective parties hereto, that the sealing and certification of the within deposition shall be and the same hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except to the form of the question, shall be reserved to the time of trial;

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed before any Notary Public with the same force and effect as if signed and sworn to before the court.

* * *

1 GROHT

2 clear that we're talking about the same thing,
3 right?

4 A Yes.

5 Q You had indicated that the, let's call it
6 a sally port, was to the south on Nassau Street of
7 the intersection with Pine. And just in case I'm
8 wrong about the cardinal direction, it's the part
9 of Nassau Street that's closer to you as you're
10 looking at this map, right?

11 A I believe so, yes.

12 Q At any point after you arrived at that
13 location, was that sally port open so that
14 vehicular traffic could flow south on Nassau
15 Street?

16 A I do not believe so, no.

17 Q When you got there, did you see traffic
18 on Pine Street?

19 A Yes.

20 Q Describe what you saw with respect to
21 vehicular traffic on Pine Street when you first
22 arrived at this location?

23 A Traffic was flowing east to west on Pine
24 Street.

25 Q What else do you remember about vehicular

1 GROHT

2 traffic conditions at that location when you
3 arrived, if anything?

4 A They came to a standstill and the
5 demonstrators stopped and blocked the
6 intersection.

7 Q Did you ever see Jennifer Klein at that
8 intersection?

9 A No.

10 Q Did you see Jennifer Klein block traffic
11 at that intersection?

12 A No.

13 Q After you arrived at the location, what's
14 the next thing that you remember relating to this
15 incident?

16 A A lot of standing around waiting.

17 Q What next?

18 A I was instructed to give verbal warnings
19 via bullhorn to request the demonstrators to move
20 from the street.

21 Q About what time was it that you were
22 given that instruction?

23 A I do not know.

24 Q About how much time had you been there
25 before you were given that instruction?

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GROHT

A Ten to fifteen minutes.

Q Who gave you that instruction?

A Possibly, not a hundred percent, Chief Ward.

Q When you say "possibly," can you unpack for me what you mean by "possibly," please?

A It might have been another chief, probably was Chief Ward, but I do not recall.

Q Tell me, please, everything that you remember about the instruction that you were given to give orders.

A I was told to use a clear voice over megaphone to instruct people that they were violating the law and they had to leave or they could be subject to arrest.

Q Okay. Then what did you do as a result of receiving those instructions?

A I stood up on a cement barrier, gave the instructions over the bullhorn.

Q Before you gave the instructions over a bullhorn, did you ensure that there were fellow officers placed elsewhere to help you know whether your orders were audible?

A Yes. We put, I don't know which officer

1 GROHT

2 they were, at locations so they could hear me.

3 And if they could hear me, then it was assumed
4 that anyone in the crowd could hear me.

5 Q Can you tell me who any of those officers
6 were who performed that function?

7 A No.

8 Q What was the next thing that you remember
9 happening?

10 A Giving the instructions over the bullhorn
11 numerous times.

12 Q How many times?

13 A It would be a guess.

14 Q Please don't guess, but I'll take an
15 estimation.

16 A Estimated between 12 and 15 times.

17 Q Over how long a total time period?

18 A Approximately five minutes.

19 Q Okay. And then what happened?

20 A Some arrests were being made.

21 Q Did you have anything to do with those
22 arrests?

23 A No.

24 Q Did you order those arrests?

25 A No.

1 GROHT

2 would start up again. So not every time warnings
3 were given arrests were made.

4 Q Understood.

5 A On that day, I do not know if I had given
6 warnings over the bullhorn prior to that stoppage.

7 Q Just so it's clear, when you say "that
8 stoppage," you mean the one at Pine and Nassau
9 Street that's partially depicted on the TARU
10 video, right?

11 A Correct.

12 Q On the date of the incident, do you know
13 under what circumstances a parade permit is
14 required by the department?

15 A No.

16 Q What's the next thing you remember about
17 the date of the incident?

18 A The arrests were being made.

19 Q Then what happened?

20 A Eventually the street cleared, traffic
21 started flowing and the group went to another
22 location.

23 Q At the time that you gave the first
24 direction over the bullhorn at Pine and Nassau on
25 the date of the incident, how many police officers

1 GROHT

2 were they?

3 A They were to get out of the street so
4 vehicular traffic could flow.

5 Q So now you remember giving warnings to
6 get out of the street as opposed to leave the
7 area?

8 A Those warnings were, you do not have a
9 parade permit, you're blocking the street, please
10 leave the area or get on the sidewalk so traffic
11 could flow. I believe that's what I said.

12 Q But you're not sure what you said?

13 A No.

14 Q When you gave those directions, were you,
15 yourself aware of what the conditions were with
16 respect to vehicular or pedestrian traffic on the
17 surrounding blocks?

18 A No. Just that area.

19 Q What's the next thing you remember with
20 respect to the incident after the arrests began?

21 A The street opened up, vehicles started
22 flowing and eventually the demonstrators moved to
23 another location.

24 Q How much time elapsed between the last
25 direction that you gave and the first arrest that

1 GROHT

2 occurred at the location?

3 A I believe I was giving instructions while
4 people were being arrested, so I don't know when
5 the last instruction was made.

6 Q Fair enough. During the time that you
7 were at the location before arrests began, were
8 there pedestrians who were coming and going in the
9 area?

10 A Repeat that, please.

11 Q During the time that you were at the
12 location before arrests began, were there
13 pedestrians who were coming and going in the area?

14 A There were pedestrians that were trying
15 to get through the crowd to get to work, yes.

16 Q How do you know they were trying to get
17 through the crowd to get to work, did you talk to
18 them?

19 A I remember some complaining that they
20 were trying to get to work.

21 Q Did you see people who you perceived to
22 be demonstrators coming and going?

23 A I don't understand the question.

24 Q During the time that you were observing
25 the conditions at the intersection, did you see

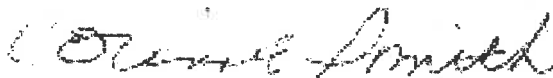
Page 51

C E R T I F I C A T E

I, CORINNE SMITH, a Shorthand Reporter and
Notary Public of the State of New York, do
hereby certify:

That the WITNESS whose examination is
hereinbefore set forth, was duly sworn, and
that such examination is a true record of the
testimony given by such WITNESS.

I further certify that I am not related to any
of the parties to this action by blood or
marriage; and that I am in no way interested in
the outcome of this matter.



CORINNE SMITH

